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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/014,191	11/13/2001	Christoph Dobrusskin	PHN 16,257A	4074
24737	7590	12/15/2004		
PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510				
EXAMINER CHERUBIN, YVESTE GILBERTE				
ART UNIT		PAPER NUMBER		
3713				

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/014,191

Applicant(s)

DOBRUSSKIN ET AL.

Examiner

Yveste G. Cherubin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 April 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 4-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is in response to the amendment filed August 11, 2004. Claims 4-15 are pending.

#### ***Priority***

2. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 09/031,695, now US Patent No. 6,354,947 filed on February 27, 1998.

Applicant's remarks regarding the domestic priority have been reviewed and have been considered. Subsequently, the instant application is receiving the benefit of the earlier filing date of the US Application No. 09/031,695, now US Patent No. 6,354,947 filed on February 27, 1998.

#### ***Double Patenting***

3. The Double Patenting rejection mailed out in March 25, 2004 is being withdrawn due to the Applicant's remarks.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the

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applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 4-15 are rejected under 35 U.S.C. 102(e) as being anticipated by Gabai (US Patent No. 5,752,880).

Regarding claims 4, 8 and 12 Gabai discloses an interactive item, see title, being used in conjunction with a screen-based host system being a computer, 1:3-5, 8:62-64. Gabai's system is capable of receiving information from the item at the computer, 2:47-51, 8:22-39 in response to proximity conditions between the host and the item or toy, 9:29-31, 44-46 and signaling to a user an associated service field at the host in response to the received information, 9:14-23, 60+, 10:1-6 and transmitting other information from the host to the item, for storage at the item, 8:49-55.

Regarding claims 5, 10, 13 Gabai discloses enabling a user to activate information processing operations at the host related to the associated service field, 9:60-62.

Regarding claims 6, 11 Gabai discloses transmitting host-generated results related to the associated service field during such proximity conditions to the item, 2:5-8.

Regarding claims 7, 9, 15 Gabai discloses producing an iconized representation of the item at the screen-based host computer in response to the received information, 2:56-67, 7:29-36, 8:1-6.

### ***Response to Arguments***

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5. Applicant's arguments with respect to claims 4-15 have been considered but are moot in view of the new ground(s) of rejection.

***Final Action***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
  - a) US Patent No. 5,636,994 to Tong, which teaches interactive computer controlled.

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- b) US Patent No. 4,846,693 to Baer, which teaches video based instructional and entertainment system using animated figure.
- c) US Patent No. 4,799, 171 to Cummings, which teaches talk back doll.
- d) US Patent No. 4,786,967 to Smith, III et al., which teaches interactive video apparatus with audio and video branching.
- e) US Patent No. 4,729,563 to Yokoi, which teaches robot-like game apparatus.
- f) US Patent No. 6,022,273 to Gabai et al., which teaches interactive doll.
- g) US Patent No. 6,075,195 to Gabai et al., which teaches computer system having bi-directional midi transmission.
- h) US Patent No. 4,712,184 to Haugerud, which teaches computer controlled educational toy.
- i) US Patent No. 4,840,602 to Rose, which teaches a talking doll responsive to an external signal.
- j) US Patent No. 5,021,878 to Lang, which teaches an animated character system with real time control.
- k) US Patent No. 5,142,803 to Lang, which teaches an animated character system with real time control.
- l) US Patent No. 5,191,615 to Aldava which, teaches an interrelational audio kinetic entertainment system in which movable and audible toys and other animated devices spaced apart from a television screen are provided with program synchronized audio and control data to interact with the program viewer in relationship to the television program.

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m) US Patent No. 5,270,480 to Hikawa, which teaches a toy acting in response to a MIDI signal, wherein an instrument-playing toy performs simulated instrument playing movements.

n) US Patent No. 5,289,273 to Lang, which teaches a system for remotely controlling an animated character.


### ***Conclusion***

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yveste G. Cherubin whose telephone number is (571) 272-4434. The examiner can normally be reached on 9:30 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thai Xuan can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ygc

  
XUAN M. THAI  
PRIMARY EXAMINER  
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